IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.338 OF 2005

Central Bureau of Investigation ...Applicant

Versus

Shri Goldie Parshotam Sud & Anr. ...Respondents

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Mr.Ejaz Khan for Applicant.

Mr.S.P.Kadam for Respondent No.1.

Ms.M.H.Mhatre, A.P.P. for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 28, 2005.

P.C.

1. Heard Counsel for the parties. Perused the pleadings and the materials on record.

2. As short question is involved, Revision is taken up for final disposal forthwith, by consent.

3. This Revision Application takes exception to the order passed by the Special Judge for

Central Bureau of Investigation in Misc. Application No.470 of 2005 in R.C.No.34 of 2004.

4. By the impugned order, the Trial Court has allowed the application preferred by Respondent No.1 permitting him to visit countries referred to in the application on his passport for a period of three months commencing from 1st October 2005 to 1st January 2006, both days inclusive, on certain conditions. The C.B.I. has come up in Revision before this Court.

5. According to the Applicant, the order will hamper the flow of investigation. The investigation is at a crucial stage. Besides, having regard to the nature of material collected and the allegations against the accused and the possibility of involvement of the Applicant in the alleged offence, it will be unfair for the investigation to allow the Applicant to go abroad at this stage.

6. In my opinion, the grievance made on behalf of C.B.I. is appropriate. Having regard to

the nature of allegations and the complexity of the case under investigation, it would be inappropriate to permit the Respondent No.1 to go abroad which may facilitate the Applicant to tamper with the evidence affecting fair investigation into the case. Indeed, the Applicant has not been named as accused so far. But as is rightly submitted on behalf of C.B.I., the Applicant is one of the suspects and the investigation is at an advance stage which would indicate complicity of the Applicant in the alleged offence. If such is the state of affairs, it would be improper to allow the Respondent No.1 to go abroad. That does not mean that investigating agency can carry on the investigation indefinitely. The investigating agency will have to conclude the investigation insofar as Applicant is concerned within six months from today, failing which, the request of the Applicant which was made before the lower Court and granted by the impugned order will have to be considered afresh, depending on the material available at the relevant time.

7. Accordingly, this Revision Application

succeeds.

8. Although, the impugned order is set-aside, it will be open to the Respondent No.1 to make fresh application for similar relief after six months in the event, the investigation is not completed by that time. In the event, the investigation is complete and no material is found against the Applicant, needless to observe that there shall be no need for the Respondent No.1 to make such application, as he would be free to proceed so as to conduct his affairs.

9. It is made clear that as and when the Respondent No.1 would make fresh application after six months, the same would be considered on its own merits uninfluenced by the observations made in the present order.

10. This Revision Application is disposed of on the above terms.

A.M.KHANWILKAR, J.